

HOUSE BILL 3176

By Gilmore

AN ACT to amend Tennessee Code Annotated, Title 8,
Chapter 1, Part 1; Title 11, Chapter 4, Part 4; Title
39, Chapter 14, Part 3 and Title 68, Chapter 201,
relative to open burning.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 39, Chapter 14, Part 3, is amended by adding the following language as a new section:

Section 39-14-308.

(a) Notwithstanding the provisions of Sections 68-102-146, 68-201-115, or 39-14-306 to the contrary, no person shall knowingly conduct open burning in a county within which a political subdivision of the state has imposed voluntary or mandatory water use restrictions during the period such water use restrictions are in effect. For purposes of this section, "open air burning" means any burning of combustible materials where the products of combustion are emitted into the open air without passing through a stack or chimney.

(b) A violation of this section is a Class B misdemeanor, punishable only by a fine not to exceed one thousand dollars (\$1,000); provided, however, that a violation of this section is a Class A misdemeanor, punishable only by a fine not to exceed five thousand dollars (\$5,000) if a fire started in violation of subsection (a) is allowed to escape and burn property adjacent to the property on which the fire is started regardless of the ownership of such adjacent property.

SECTION 2. Tennessee Code Annotated, Section 39-14-306, is amended by deleting subsection (b) in its entirety and by substituting instead the following:

(b) A violation of subsection (a) is a Class C misdemeanor.

(c) Notwithstanding the provisions of subsection (a) to the contrary, the state forester and, if applicable, the state forester's duly authorized representative are prohibited from issuing a permit to allow open burning in a county within which a political subdivision of the state has imposed voluntary or mandatory water use restrictions during the period such water use restrictions are in effect. Any permit issued prior to the imposition of voluntary or mandatory water use restrictions shall be suspended during the period such water use restrictions are in effect. A person who knowingly engages in open burning in a county where water use restrictions are in effect commits a violation of Section 39-14-308. For purposes of this subsection, "open air burning" means any burning of combustible materials where the products of combustion are emitted into the open air without passing through a stack or chimney.

SECTION 3. Tennessee Code Annotated, Title 68, Chapter 201, Part 1, is amended by adding the following language as a new, appropriately designated section:

Section 68-201-1__.

The department and any political subdivision of the state authorized to regulate open burning are prohibited from issuing a permit to allow open burning in a county within which a political subdivision of the state has imposed voluntary or mandatory water use restrictions during the period such water use restrictions are in effect. Any permit issued prior to the imposition of voluntary or mandatory water use restrictions shall be suspended during the period such water use restrictions are in effect. A person who knowingly engages in open burning while water use restrictions are in effect commits a violation of Section 39-14-308. For purposes of this section, "open air burning" means any burning of combustible materials where the products of combustion are emitted into the open air without passing through a stack or chimney.

SECTION 3. This act shall take effect July 1, 2008, the public welfare requiring it.

